IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

TAX CASE APPEAL NO.228 OF 2017

M/s M.Arunachalam and Company,
No.117/79, Lloyds Road,
Royapettah,
Chennai - 600 014.
PAN: AAAFM6851F ... Appellant

Versus

The Joint/Assistant Commissioner
of Income Tax,
Business Range - VIII,
Chennai - 600 006. ... Respondent

PRAYER:-

Tax Case Appeal filed under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Chennai "A" Bench, dated 07.04.2016 passed in I.T.A.No.1352/Mds/2015 for the Assessment Year 2009 - 2010.

Against the Order of Commissioner of Income Tax, Appeals - 13, Chennai - 34, dated 27/03/2015 in ITA:165 CIT(A)-13/2013-14 and arising out of the Assessment Order of 'Joint Commissioner of Income Tax, Circle - VIII, 611, Anna Salai, Chennai - 6, dated 29/12/2011 in PAN No: AAAFM6851F.

For Appellant : Mr.S.Sridhar

For Respondent : M/s.V.Pushpa
Junior Standing Counsel

J U D G M E N T

(Judgment was delivered by R.MAHADEVAN, J.)

This tax case appeal has been filed by the appellant/ assessee, challenging the order dated 07.04.2016 passed by the Income Tax Appellate Tribunal, 'A' Bench, Chennai, in I.T.A.No.1352/Mds/2015, relating to the assessment year 2009-10, by raising the following substantial questions of law:-

> " 1. Whether the Appellate Tribunal is correct in law in confirming the disallowance of interest payments aggregating to Rs.23,82,173/- against the loan taken for the purpose of property for business despite the material evidence available on record on the existence as well as the use of the said building for business purposes as against the perverse finding of facts recorded by them as well as by the lower authorities?
>
> 2. Whether the Appellate Tribunal is correct in law in confirming the disallowance of depreciation on the building purchased for business purposes despite the material evidence available on record on the existence as well as the use of the said building for business purposes as against the perverse findings of facts recorded by them as well as by the lower authorities?

2. When the matter was taken up for consideration, the learned counsel appearing for the appellant/assessee submitted that during the pendency of this tax case appeal, the assessee has filed the requisite Forms 1 and 2 under Section 4 of the Direct Tax Vivad Se Vishwas Act, 2020, which were accepted and Form 3 was issued to the assessee on 10.06.2021 by the Income Tax Department. The learned counsel has also filed a memo to that effect.

3. The aforesaid submission made by the learned counsel for the appellant/assessee has also been fairly conceded by the learned senior standing counsel appearing for the respondent/ Revenue.

4. This court heard the submissions made by the learned counsel on either side, as per which, the assessee has already availed the benefit conferred under the beneficial legislation viz., the Direct Tax Vivad Se Vishwas Act, 2020, enacted for resolution of disputed tax and for matter connected therewith or incidental thereto, which came into force with effect from

17.03.2020; and the declarations submitted by the assessee were also accepted and Form 3 was also issued to them by the Income Tax Department. In view of such development, it is unnecessary for this court to decide the substantial questions of law arisen in this tax case appeal.

5. Therefore, recording the submissions so made by the learned counsel on either side, this appeal stands disposed of, directing the department to process the application at the earliest in accordance with the Act and communicate the decision to the assessee at the earliest. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Income Tax Appellate Tribunal,
   Chennai "A" Bench.

2. The Joint/Assistant Commissioner of Income Tax,
   Business Range VIII,
   Chennai - 600 006.

3. The Joint Commissioner of Income Tax,
   Appeals - 13,
   Chennai - 34.

4. The Commissioner of Income Tax,
   Appeal - 8,
   Chennai - 6.

+1cc to Mr.M.Swaminathan, Advocate, S.R.No.62500
+1cc to Mr.S.Sridhar, Advocate, S.R.No.62510

TAX CASE APPEAL NO.228 OF 2017

KG(CO)
PBS/28/12/2021